

REMARKS

United States Serial No. 10/574,866 is a national stage application of International Application No. PCT/CH2004/000622, filed October 13, 2004, which claims the benefit of U.S. Serial No. 60/511,539, filed October 15, 2003. The date of entry into the national stage of United States Serial No. 10/574,866 is April 6, 2006. A preliminary amendment was also filed on April 6, 2006 upon entering the national stage. The 371(c) date (date of receipt of the 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. §371 requirements) is October 18, 2006.

Claims 1-6 are pending. An Office Action mailed July 21, 2009 subjected claims 1-6 to a restriction requirement. Applicant filed a response to this restriction requirement which included an election of claims to be examined for prosecution and traversing arguments on August 19, 2009. In view of Applicant's August 19, 2009 response, the Office vacated the restriction requirement of July 21, 2009 and issued a new restriction requirement on November 18, 2009. In response, Applicant has made the necessary election along with traversing arguments in response to the restriction requirement of November 18, 2009, discussed in detail below. In view of the traversing arguments set forth herein, Applicant respectfully requests that alleged Groups I and II within claims 1-6 be rejoined and allowed.

RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action mailed November 18, 2009, the Examiner required Applicant to elect one of the following Groups based on 35 U.S.C. §121, §372, and PCT Rule 13.1:

Group I (claims 1-3): drawn to a method of preparing a foodstuff including a coating step.

Group II (claims 4-6): drawn to a container capable of being sealed and capable of containing hot cooked food, which has a coating thereon.

In response to the restriction requirement, Applicant elects to prosecute the claims of Group I, drawn to a method of preparing a foodstuff (claims 1-3), and traverses the restriction for the reasons set forth below.

The Office Action's position is that the claims of Groups I and II are not so linked as to form a single general inventive concept under PCT Rule 13.1 in that the alleged technical feature linking the claims of Group I and II do not provide a contribution over the prior art as evidenced by Bilmers (EP 815,741), Vickers et al. (US 5,192,567), LaBaw et al. (US 4,904,487) and Ludwig (EP 988,798).

Applicant respectfully submits that the special technical feature linking the claims of Group I and II which provides a contribution over the prior art will be clarified during prosecution of the present application on the merits.

Nonetheless, Applicant traverses the restriction requirement on grounds that the claims of Groups I and II would not pose an additional search burden on the Office. In this regard, the claims of Group I (specifically claim 1) relate to a method for preparing a foodstuff wherein a seasoning mixture is applied to a cooked foodstuff. The seasoning mixture comprises seasonings and a granular edible substance that will form an essentially continuous coating on the surface of the foodstuff, at the temperature of the cooked foodstuff, which coating is no longer fluid at the temperature at which the foodstuff will be consumed. The claims of Group II (specifically claim 4) also relate to the seasoning mixture as recited in Group I wherein the seasoning mixture is coated on at least one inner surface of a sealable container for containing a hot, cooked foodstuff.

In this regard, Applicant respectfully submits that a search of seasoning mixtures for a foodstuff would inherently include methods of preparing a foodstuff and containers which may be used in the preparation of such foodstuffs. Thus, a search in the art of seasoning mixtures would pose no additional search burden on the Office in that the method of Group I and the container for carrying out the method of Group II both relate to food preparation using seasoning mixtures.

Furthermore, Applicant respectfully submits that the Office Action fails to explain why there would be a serious search burden on the Office if restriction is not required. In this regard, it is respectfully submitted that the Office Action fails to allege that the claims of Group I and II have obtained a separate classification or status in the art or require a different field of search.

Applicant: Paul Brian KISER

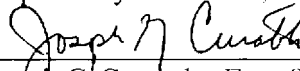
Response to Office Action mailed: November 18, 2009

Response Filed: December 9, 2009

In view of the above remarks, Applicant respectfully requests a withdrawal of the restriction requirement between Groups I and Group II, and requests the issuance of a formal Notice of Allowance directed to claims 1-6.

Should the Examiner have any questions about the above remarks, the undersigned attorneys would welcome a telephone call.

Respectfully submitted,



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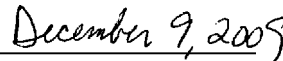
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